

Federal Communications Commission
Washington, DC 20554

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In the Matter of)
)
 Request for Review of the)
 Decision of the)
 Universal Service Administrator by)
)
 Forsyth County Public Library)
 Winston-Salem, North Carolina)
)
 Federal-State Joint Board on)
 Universal Service)
)
 Changes to the Board of Directors of the)
 National Exchange Carrier Association, Inc.)

OCT 10 2002

FCC - MAILROOM

File No. SLD-275522

CC Docket No. 96-45✓

CC Docket No. 97-21

ORDER

Adopted: October 7, 2002

Released: October 8, 2002

By the Telecommunications Access Policy Division, Wireline Competition Bureau:

1. The Telecommunications Access Policy Division has under consideration a Request for Review filed by the Forsyth County Public Library (Forsyth), Winston-Salem, North Carolina, seeking review of a decision issued by the Schools and Libraries Division (SLD) of the Universal Service Administrative Company (Administrator).¹ Forsyth seeks review of SLD's denial of its application for discounts under the schools and libraries universal service **support** mechanism.* For the reasons set forth below, we grant Forsyth's appeal and remand its application to SLD for further processing.

2. Under the schools and libraries universal service support mechanism, eligible schools, libraries, and consortia that include eligible schools and libraries, may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ In

¹ Letter from Herman Schmid, Forsyth County Public Library, to Federal Communications Commission, filed July 18, 2001 (Request for Review).

² See Request for Review. See also Section 54.719(c) of the Commission's rules provides that **any** person aggrieved by an action taken by a division of the Administrator may **seek** review from the Commission. 47 C.F.R. § 54.719(c).

³ 47 C.F.R. §§ 54.502, 54.503

order to receive discounts on eligible services, the Commission's rules require that the applicant submit to SLD a completed FCC Form 470, in which the applicant sets forth its technological needs and the services for which it seeks discounts! Once the applicant has complied with the Commission's competitive bidding requirements and entered into agreements for eligible services, it must file an FCC Form 471 application to notify the Administrator of the services that have been ordered, the carrier with whom the applicant has entered into an agreement, and an estimate of funds needed to cover the discounts to be given for eligible services.⁵

3. On January 18, 2001, Forsyth submitted two Funding Year 2001 applications to SLD.⁶ Forsyth used the following application identifiers: FCPLYR4TEL471 (TEL application) and FCPLYR4NET471 (NET application).⁷ The TEL application is application number 275522, the subject of the instant Request for Review. By letter dated March 22, 2001, SLD informed Forsyth that its TEL application did not meet SLD's Minimum Processing Standards and therefore could not be processed.⁸ Specifically, SLD explained that Forsyth submitted an incomplete application and advised Forsyth to submit all six blocks of the application, including pages 1-5.⁹

4. Forsyth then filed an appeal with SLD asserting that it had submitted a complete application.¹⁰ Forsyth maintained that in submitting its application, it had numbered each page of its application in the bottom right-hand corner and the completed application consisted of 20 pages.¹¹ Forsyth noted that when SLD returned its application, the pages were out of order and

⁴ 47 C.F.R. § 54.504 (b)(1), (b)(3)

⁵ 47 C.F.R. § 54.504(c).

⁶ FCC Forms 471, Forsyth County Public Library, tiled January **18, 2001**. Previously, this funding period was referred to as Funding Year 4. Funding years are now described by the year in which the funding period starts. Thus, the funding period which began on July 1, 2001 and ended on June **30, 2002**, previously referred to as Funding Year 4, is now called Funding Year 2001. The funding period which began on July 1, 2002 and ends on June **30, 2003** is now known as Funding Year 2002, and so on.

⁷ *Id*

⁸ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Herman Schmid, Forsyth County Public Library, dated March **22, 2001** (Rejection Letter). SLD utilizes what it calls "Minimum Processing Standards" to facilitate the efficient review of the thousands of applications requesting funding. 47 C.F.R. § 54.504(c); *see* SLD website, "Form 471 Minimum Processing Standards and Filing Requirements for Funding Year [2001]," <<http://www.sl.universalservice.org/reference/471mps.asp>>. Minimum Processing Standards require applicants to provide at least the basic data necessary for SLD to initiate review of the application under statutory requirements and Commission rules. When an applicant submits an FCC Form 471, SLD performs an initial visual inspection of applications it receives to determine if they have omitted items required by the Minimum Processing Standards. In such a case, SLD automatically returns the application to the applicant without considering the application for discounts under the program.

⁹ *Id*.

¹⁰ Letter from Herman Schmid, Forsyth County Public Library, to Schools and Libraries Division, Universal Service Administrative Company, tiled April **16, 2001** (Appeal to SLD).

¹¹ *Id*. This is consistent with our review of the copy of the TEL application in the record before us. FCC Form 471, Forsyth County Public Library, tiled January **18, 2001** (TEL application).

pages nineteen and twenty were missing. Forsyth also submitted a copy of its completed TEL application with its Appeal to SLD.¹²

5. By letter dated June 26, 2001, SLD denied Forsyth's appeal, finding that its original application did not include a Block 6 certification page and concluding that Forsyth had failed to bring forward persuasive evidence that its application included all six blocks of the FCC Form 471.¹³ We find that SLD issued this decision before its discovery of the missing pages with Forsyth's NET application, as discussed below.¹⁴

6. On July 18, 2001, Forsyth filed the instant Request for Review.¹⁵ In its Request for Review, Forsyth asserts that both its NET and its TEL applications were complete when originally sent to SLD, and that its TEL application was improperly denied based on an SLD error.

7. Subsequently, on August 6, 2001, SLD sent Forsyth a postcard informing Forsyth that its NET application was incomplete and therefore would not be processed.¹⁶ Upon receipt of this postcard, Forsyth called SLD to inquire about the rejection of the NET application, because that application had previously been approved for funding.¹⁷ In a telephone conversation on August 9, 2001, SLD confirmed that the postcard was sent in error.¹⁸ SLD stated that the NET application was indeed complete and approved as submitted. SLD further advised Forsyth to ignore the postcard. In addition, during the conversation, SLD discovered that the Block 6 certification page for Forsyth's TEL application had been incorrectly attached to its NET application.

8. We have carefully reviewed the record before us and conclude that SLD improperly denied Forsyth's TEL application. The record reveals that Forsyth did timely file two complete applications with SLD. The record indicates that SLD improperly attached the certification page for Forsyth's TEL application with Forsyth's NET application. We find that SLD's error resulted in the denial of Forsyth's TEL application. We therefore remand Forsyth's application to SLD for further processing consistent with this Order. However, we make no determination as to whether Forsyth is ultimately entitled to discounts.

¹² *Id.*

¹¹ Letter from Schools and Libraries Division, Universal Service Administrative Company, to Herman Schmid, Forsyth County Public Library, dated June 26, 2001 (Administrator's Decision on Appeal).

¹⁴ *See infra*, para. 7

¹⁵ Request for Review.

¹⁶ Postcard from Schools and Libraries Division, Universal Service Administrative Company, to Forsyth County Public Library, dated August 6, 2001.

¹⁷ Request for Review.

¹⁸ PIA Review Log, dated August 9, 2001

9. ACCORDINGLY, IT IS ORDERED, pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, and 54.722(a), that the Request for Review filed August 18, 2001, by Forsyth County Library, Winston-Salem, North Carolina, IS GRANTED to the extent provided herein, and Forsyth's application is REMANDED to SLD for further consideration consistent with this decision.

FEDERAL COMMUNICATIONS COMMISSION



Mark G. Seifert

Deputy Chief, Telecommunications Access Policy Division
Wireline Competition Bureau